



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

November 9, 2009

Linda Brenner
Director of Community Development
Matanuska-Susitna Borough
350 E. Dahlia Avenue
Palmer, AK 99645

Re: STB Finance Docket No. 35095, The Alaska Railroad Corporation – Petition for Exemption for Construction and Operation of a Rail Line Extension to Port Mackenzie, Alaska; Request for Information Regarding 4(f) Applicability, Measures to Minimize Harm, and *de minimis* Findings

Dear Ms. Brenner:

The purpose of this letter is to request your input as the official with jurisdiction over the resources identified below regarding: (1) the applicability of Section 4(f) of the U.S. Department of Transportation Act of 1966 (also referred to as "Section 4(f)") to the recreation resources that could be affected by the above-referenced project (also referred to as the "Port MacKenzie Rail Extension"); (2) whether there are any other resources under Matanuska-Susitna Borough (MSB) jurisdiction that qualify as Section 4(f) resources and would be affected by any of the alternatives for the proposed rail line; and (3) where the proposed project may require the use of a Section 4(f) resource, whether proposed mitigation and measures to minimize harm would support a finding of *de minimis* use.

Section 4(f) Background

The Surface Transportation Board's (the Board) Section of Environmental Analysis (SEA) is in the process of developing a Draft Environmental Impact Statement (EIS) for the proposed Port MacKenzie Rail Extension. SEA anticipates that the Draft EIS will include a determination that some of the alternatives analyzed for the proposed Port MacKenzie Rail Extension could have an effect on one or more recreational resources located within MSB-managed land that may be protected under Section 4(f).

Section 4(f) applies to the actions of agencies within the U.S. Department of Transportation (U.S. DOT). In order for the Federal Railroad Administration (FRA), a U.S. DOT agency and a cooperating agency in the development of this EIS, to grant funding for the proposed Port MacKenzie Rail Extension, FRA must determine and evaluate the project's potential effects to resources protected under Section 4(f). The Secretary of the Department of Transportation cannot approve a transportation project requiring the use of publicly owned parks, recreation areas, or wildlife and waterfowl refuges, or significant public or private historic sites unless there is no prudent and feasible alternative to using that land and the project includes all possible planning to minimize harm to the Section 4(f) resource.

Resources protected under Section 4(f) include “significant publicly owned public parks and recreational areas that are open to the public and significant publically owned wildlife and waterfowl refuges.” The term “significant” means that in comparing the availability and function of the park, recreational area or wildlife and waterfowl refuge, with the park, recreation or refuge objectives of the community or authority, the resource in question plays an important role in meeting those objectives. Further, one of its major purposes and functions must be for park, recreation, or as a refuge. If any of the resources identified below offer incidental, secondary, occasional or dispersed park, recreational or refuge activities, then this does not constitute a major purpose and the resource would not qualify for protection under Section 4(f).

Potential Section 4(f) Properties

We have identified the following preliminary list of potential Section 4(f) properties that could be affected by one or more of the route alternatives for the proposed rail extension:

- *Point MacKenzie Trailhead Parking Lot.* The area provides public parking and access to the Figure 8 Loop Trail and other trails in the Point MacKenzie area.
- *West Gateway Trail.* The trail provides access from the Parks Highway across Willow Lake to the larger West Gateway Trails System further west.
- *Iron Dog Trail.* This multi-use winter trail provides access between the Big Lake area and the Susitna River.
- *Crooked Lake Trail.* This multi-use winter trail provides access between the Big Lake area and the Susitna River.
- *Iditarod Link Trail.* This multi-use winter trail provides access between the Iditarod and Flathorn Lake Trails.
- *Aurora Dog Mushers Trail System.* This trail system is part of a large recreational trail system that supports a variety of winter sports.
- *Figure 8 Lake Loop Trail.* This is a multi-use winter trail system that provides access to Point MacKenzie to the Susitna Flats State Game Refuge.
- *Herning Trail.* This designated RS 2477 trail would be crossed on MSB-owned land approximately two miles south of West Hollywood Road.

SEA, on behalf of FRA, respectfully requests that MSB determine whether the availability and function of these resources plays an important role in meeting the objectives of MSB and verify that one of the major purposes and functions of these resources is for park, recreation, or as a refuge. Additionally, if there any other potential Section 4(f) resources that would be affected by the proposed rail line that we have not identified, please provide information on these resources and their location in your reply.

Measures to Minimize Harm and *de minimis* Findings

SEA is also developing measures to minimize potential impacts to Section 4(f) resources. SEA will include these mitigation measures in the Port MacKenzie Rail Extension Draft EIS. The measures will include voluntary mitigation developed by the Applicant, as well as

preliminary mitigation developed by SEA. Below is a list of measures we are considering including in the Draft EIS to mitigate potential impacts of the proposed rail line on the MSB-managed resources identified above.

- *The Applicant shall consult with land managers to develop a plan to ensure construction activities occur during the most appropriate timeframe, designate temporary recreational access points if main access routes must be obstructed during construction, and consult with the agencies with jurisdiction and user groups to limit potential impacts to recreation activities.*
- *The Applicant shall maintain public access to and from legally authorized trails and Matanuska-Susitna Borough recognized trail easements. The Applicant shall provide grade-separated crossing locations where the new rail line crosses these trails, although some trails may require some realignment to consolidate crossings. The Applicant shall work with trail user groups to design and construct grade-separated trail crossing.*
- *If the Surface Transportation Board authorizes the Mac West alternative segment, the Applicant shall consult with Alaska Department of Natural Resources and MSB to determine an appropriate location and relocate the Point Mackenzie Trailhead, Parking Lot, and the eastern end of the Figure 8 Loop Trail to another site.*
- *If the Surface Transportation Board authorizes the Mac West alternative segment, the Applicant shall provide grade-separated crossing(s) of the Figure 8 Loop Trail where the trail is located on public land and would be crossing by the Mac West alternative segment, or shall relocate the trail, in consultation with the Matanuska-Susitna Borough and trail user groups, such that the trail would not be crossed by the rail line.*

Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 303), also known as SAFETEA-LU, amended Section 4(f) statutory requirements to include an exception for uses of protected land that would have a "*de minimis*" impact on that land. The U.S. Secretary of Transportation may make a finding of *de minimis* impact if the project "will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection" under Section 4(f), and if the "Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge." To complete the Section 4(f) evaluation, SEA, on behalf of FRA, is requesting your input on whether a *de minimis* impact finding for any or all of the properties identified above could be reached through the implementation of the measures described above, or with the development and implementation of additional mitigation measures.

In summary, please indicate if you concur that: (1) this letter has identified all the MSB-managed Section 4(f) resources potentially affected by the proposed Port MacKenzie Rail Extension; (2) there are no other MSB-managed Section 4(f) resources potentially affected by the proposed project; and (3) the potential mitigation measures outlined in this letter would make the potential impacts *de minimis* for any of the Section 4(f) resources listed in this letter, and if so, which resources. If we have failed to identify all the MSB-managed Section 4(f) resources, please identify their location and provide a description of the resource in your reply. If MSB believes that additional mitigation measures would be required to make the potential impacts on Section 4(f) resources *de minimis*, please outline such measures in your reply. Please address your reply to Dave Navecky of my staff at the letterhead address, or as an email attachment to David.Navecky@stb.dot.gov.

I thank you in advance for the expertise and effort needed in responding to the questions posed in this letter. If you have any questions, please do not hesitate to contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville of ICF International, Project Manager for SEA's third-party contracting team, at 703-934-3616. We would appreciate your reply by December 9, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Chief
Section of Environmental Analysis

cc:
Mr. John Winkle
Federal Railroad Administration
Office of Railroad Development
1200 New Jersey Ave SE - Mail Stop 20
Washington, DC 20590